

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ANDY PEREZ,

Petitioner,

v.

No. 23-cv-617-KG-GBW

ATTORNEY GENERAL FOR  
THE STATE OF NEW MEXICO,  
RONALD MARTINEZ,

Respondents.


ORDER OF DISMISSAL

This matter comes before the Court *sua sponte* upon review of the docket.

Petitioner Andy Perez commenced this case by filing a handwritten Petition for a Writ of Habeas Corpus on July 21, 2023. (Doc. 1) (the “Petition”). It appeared that Perez primarily raised a challenge to the conditions of his confinement under 42 U.S.C. § 1983, but he may also have sought to challenge the validity or legality of his sentence under 28 U.S.C. § 2254 and/or to challenge the execution of his sentence under 28 U.S.C. § 2241. As the nature of relief Perez sought was unclear from the Petition, the Court entered an Order Directing Amendment on December 21, 2023, requiring Perez to clarify his claims by filing a proper habeas petition within thirty days and/or to file a § 1983 complaint to commence a civil rights case. (Doc. 2). To facilitate his amendment process, the Court mailed Perez a civil rights complaint form, and blank habeas petitions that he could use to seek relief under § 2241 or § 2254, as well as an overview of the law governing each form of relief. The amendment deadline expired on January 22, 2024. Perez did not file an amended petition as directed, nor did he otherwise respond to the Court’s Order

Directing Amendment. This case shall therefore be dismissed without prejudice under Fed. R. Civ. P. 41(b) for “failure to prosecute [and] comply with the ... court’s orders.” *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003).

IT IS THEREFORE HEREBY ORDERED that this case is DISMISSED without prejudice and a separate judgment shall be entered herewith.

  
UNITED STATES DISTRICT JUDGE